



PATENT
Customer No. 22,852
Attorney Docket No. 06502.0338

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Michael SIJACIC et al.) Group Art Unit: 2171
Serial No.: 09/867,650) Examiner: Unassigned
Filed: May 31, 2001)
For: METHOD AND SYSTEM FOR)
DEFINING AND CREATING)
CUSTOM ACTIVITIES WITHIN)
PROCESS MANAGEMENT)
SOFTWARE)

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

PETITION FOR CONSIDERATION OF DECLARATION UNDER 37 C.F.R. § 1.47(a)

Pursuant to 37 C.F.R. § 1.47(a), the undersigned petitions the Commissioner for inventors Michael Sijacic and Michal Chmielewski of the above identified application to make the application for a U.S. patent on behalf of inventors Edwin Khodabachian and Albert Tam. Although diligent effort has been made, Edwin Khodabachian and Albert Tam cannot be reached and have failed to execute a declaration and power of attorney. This petition includes a statement and proof of pertinent facts, the required fee of \$130.00 as set forth in 37 C.F.R. § 1.17(h), a Declaration/Power of attorney signed by the available inventors, and the last known address for each nonsigning inventor.

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

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A. The Declaration/Power of Attorney Signed by Michael Sijacic and Michal Chmielewski May be Treated as Having Been Signed by All of the Joint Inventors.

According to 37 C.F.R. 1.47(a), if a joint inventor cannot be found or reached after diligent effort, an application may be made by an available inventor on behalf of himself or herself and a nonsigning inventor. According to M.P.E.P. § 409.03(a)(A), a declaration signed by all of the available joint inventors with the signature block of the nonsigning inventors left blank may be treated as having been signed by all of the available inventors on behalf of the nonsigning inventors.

Accompanying this Petition is a Declaration signed by the available inventors, Michael Sijacic and Michal Chmielewski on May 24, 2001. The signature blocks for the remaining two joint inventors, Edwin Khodabachian and Albert Tam, who cannot be found or reached after diligent effort have been left blank. Accordingly, Applicants submit that the requirements of M.P.E.P. § 409.03(a)(A) have been met.

B. Diligent Effort has Been Made by the Undersigned to Reach Edwin Khodabachian and Albert Tam.

M.P.E.P. § 409.03(a)(B) requires that the application be accompanied by proof that the nonsigning inventors cannot be found or reached after diligent effort. According to M.P.E.P. § 409.03(d), a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. Accordingly, Applicants submit a statement of facts describing the diligent effort made to locate the nonsigning inventors.

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STATEMENT OF FACTS

I. On May 23, 2001, the undersigned sent a copy of a final version of the above identified application and Declaration to all of the joint inventors via Federal Express. Among the joint inventors, only two of them (Michael Sijacic and Michal Chmielewski) signed the Declaration and returned it to the undersigned. The remaining two joint inventors, Edwin Khodabachian and Albert Tam, have not responded to the May 23, 2001 communication. (see Exhibits A and B, copies of cover letters that accompanied the final versions sent on May 23, 2001).

II. The final version and declaration that were mailed on May 23, 2001, were sent to the last known addresses for Mr. Khodabachian and Mr. Tam.

III. Another representative for the Assignee (hereafter "representative") was contacted by the undersigned to solicit help in reaching Edwin Khodabachian and Albert Tam. The undersigned requested that the representative contact the previous employer of these two nonsigning inventors to (1) verify the addresses referred to in paragraphs I and II, and (2) obtain, if possible, additional contact information for the two nonsigning inventors from the previous employer.

IV. On October 30, 2001, the representative forwarded a copy of an electronic message to the undersigned that included a request to the previous employer of Edwin Khodabachian and Albert Tam for contact information. (see Exhibit C, copy of this electronic message).

V. On November 5, 2001, the undersigned received an electronic message from the representative including (1) verification of the addresses referred to in paragraphs I and II, and (2) an electronic mail address for Edwin Khodabachian (see Exhibit D, copy of this electronic message).

VI. On November 6, 2001, the undersigned sent an electronic message to Edwin Khodabachian requesting that he call the undersigned to discuss the above identified application. The electronic message was sent to the electronic mail address included in the message identified in paragraph V. (see Exhibit E, copy of this electronic message).

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VII. On November 12, 2001, the undersigned conducted an Internet search to locate a phone number for either of the two nonsigning inventors because the undersigned had not received a response to electronic message sent to Edwin Khodabachian referred to in paragraph VI. The search produced a telephone number for Albert Tam, while a telephone number for Edwin Khodabachian was not obtained (see Exhibit F, copy of Internet Search results).

VIII. On November 12, 2001, the undersigned called Albert Tam at the number identified in the Internet search result described in paragraph VII. The undersigned left a voice mail message with an answering machine requesting that Albert Tam call the undersigned as soon as possible. The under signed has no received a response to the voice message.

C. The Last Known Addresses for Edwin Khodabachian and Albert Tam

Pursuant to 37 C.F.R. § 1.47(a) and M.P.E.P. §§ 409.03(a)(C) and 409.03(e), the last known addresses for the nonsigning inventors are:

Edwin Khodabachian
1000 Escalon Avenue, #Q2132
Sunnyvale, CA 94085

Albert Tam
1000 Escalon Avenue, #N2108
Sunnyvale, CA 94085

D. The Commissioner should accept the enclosed Declaration executed by Michael Sijacic and Michal Chmielewski as proper and allow prosecution to begin on the above identified application.

The undersigned submits that the requirements of 37 C.F.R. § 1.47(a) and M.P.E.P. §§ 409.03(a) (A)-(C), 409.03(d), and 409.03(e) have been met. Because diligent effort has been made to reach Edwin Khodabachian and Albert Tam and these two inventors have not responded to this effort, the undersigned requests that the Commissioner approves this petition and the

enclosed Declaration executed by Michael Sijacic and Michal Chmielewski, and allow prosecution on the merits to begin on the above identified application.

The required petition fee set forth under 37 C.F.R. § 1.17(h) is enclosed. If there are any other fees required for filing this response, including any fees for extensions of time required to enter this response, please charge these fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 30, 2001

By: 

Joseph E. Palys
Reg. No. 46,508

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1300 I STREET, N. W.
WASHINGTON, DC 20005-3315

202 • 408 • 4000
FACSIMILE 202 • 408 • 4400

ATLANTA
404 • 653 • 6400
PALO ALTO
650 • 849 • 6600

WRITER'S DIRECT DIAL NUMBER:
202 • 408 • 4023

TOKYO
011 • 813 • 3431 • 6943
BRUSSELS
011 • 322 • 646 • 0353

May 23, 2001

Edwin Khodabachian
1000 Escalon Avenue, #Q2132
Sunnyvale, CA 94085

VIA FEDERAL EXPRESS

New U.S. Patent Application
Inventor: Michael Sijacic et al.
Title: METHODS AND SYSTEM FOR DEFINING AND CREATING
CUSTOM ACTIVITIES WITHIN PROCESS MANAGEMENT
SOFTWARE
Our Reference: 06502-0338.00000

Dear Edwin:

Enclosed is a final version of the subject patent application and accompanying drawings for review.

Please make sure that you review the application and drawings carefully to determine whether the application properly and fully describes the invention. If minor errors are present, please make any deletions or insertions in black ink. Each such correction must be initialed and dated. If more substantial changes are required, please call me so that the application can be amended and returned to you for execution.

Please also make sure that the inventorship for this case is correct and that no additional individuals need to be added as co-inventors. Also, please remind note that it is incumbent upon all U.S. patent applicants to incorporate the "best mode" of practicing their invention at the time the application is filed. In other words, no critical or particularly beneficial feature can be withheld from the U.S. Patent and Trademark Office as a "trade secret" or otherwise. Accordingly, any additional information which you or the other inventors have in this regard should be incorporated in the application. This obligation extends up until the date of filing the application with the U.S. Patent and Trademark Office. Therefore, if there are any such "critical" or "particularly beneficial" features related to the invention, please let us know so that we can make any necessary revisions to the application before filing.

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EXHIBIT A

OFFICE OF PETITIONS
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER

Edwin Khodabachian

May 23, 2001

Page 2

If the application is complete as written or with minor corrections, please sign and date the enclosed Declaration and Assignment (where checked in pencil) and return them to me along with the application and drawings in the attached return Federal Express package.

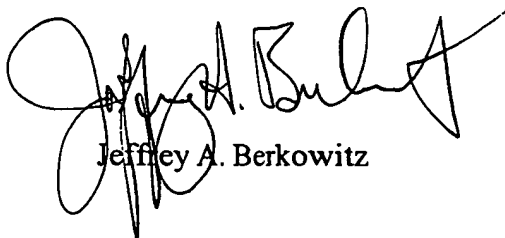
U.S. patent laws provide that the inventor and all persons who actively participate in the preparation of a patent application have an obligation to inform the Patent Office of all material prior art of which they are aware. In fulfillment of this obligation, please provide us with any information or references which you consider to be material to the examination of the patent application.

Additionally, please note that the scheduled filing date for this application is no later than May 31, 2001. Accordingly, please return the signed Assignment and Declaration as soon as possible.

If you have any questions, please do not hesitate to contact me or Joseph Palys at (202) 408-4280.

With best regards,

Sincerely,



Jeffrey A. Berkowitz

JAB/JEP
Enclosure

cc: Naren Chaganti, Esq. (w/encls.)

EXHIBIT A (cont.)

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.



1300 I STREET, N. W.
WASHINGTON, DC 20005-3315

202 • 408 • 4000
FACSIMILE 202 • 408 • 4400

WRITER'S DIRECT DIAL NUMBER:

202 • 408 • 4023

ATLANTA
404 • 653 • 6400
PALO ALTO
650 • 849 • 6600

TOKYO
011 • 813 • 3431 • 6943
BRUSSELS
011 • 322 • 646 • 0353

May 23, 2001

Albert Tam
1000 Escalon Avenue, #N2108
Sunnyvale, CA 94085

VIA FEDERAL EXPRESS

New U.S. Patent Application
Inventor: Michael Sijacic et al.
Title: METHODS AND SYSTEM FOR DEFINING AND CREATING
CUSTOM ACTIVITIES WITHIN PROCESS MANAGEMENT
SOFTWARE

Our Reference: 06502-0338.00000

Dear Albert:

Enclosed is a final version of the subject patent application and accompanying drawings for review.

Please make sure that you review the application and drawings carefully to determine whether the application properly and fully describes the invention. If minor errors are present, please make any deletions or insertions in black ink. Each such correction must be initialed and dated. If more substantial changes are required, please call me so that the application can be amended and returned to you for execution.

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EXHIBIT B

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER

Albert Tam
May 23, 2001
Page 2

If the application is complete as written or with minor corrections, please sign and date the enclosed Declaration and Assignment (where checked in pencil) and return them to me along with the application and drawings in the attached return Federal Express package.

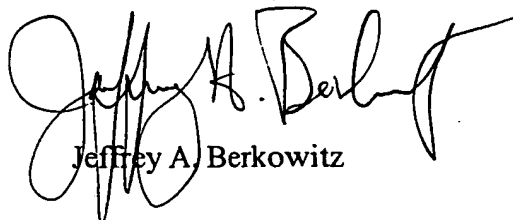
U.S. patent laws provide that the inventor and all persons who actively participate in the preparation of a patent application have an obligation to inform the Patent Office of all material prior art of which they are aware. In fulfillment of this obligation, please provide us with any information or references which you consider to be material to the examination of the patent application.

Additionally, please note that the scheduled filing date for this application is no later than May 31, 2001. Accordingly, please return the signed Assignment and Declaration as soon as possible.

If you have any questions, please do not hesitate to contact me or Joseph Palys at (202) 408-4280.

With best regards,

Sincerely,


Jeffrey A. Berkowitz

JAB/JEP
Enclosure

cc: Naren Chaganti, Esq. (w/encls.)

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EXHIBIT B (cont.)

From: Michael Schallop <Michael.Schallop@SUN.COM>
T : <mlemley@netscape.com>, <rdunn@netscape.com>
Date: 10/30/01 3:14PM
Subject: Former Netscape Employees - Inventors - Contact Information Needed [Fwd: Your ref. P5948]

Confidential/Privileged
10.30.01.mjs

Mike or Rhonda,
Please advise as to whether you can help me locate the correct forwarding/home contact information for the two former Netscape employees identified in the forwarded e-mail (we had already have received signed documents from the two Netscape inventors, so we do not need their contact information). Thanks.
Best regards,
Michael

CC: <michael.schallop@SUN.COM>

EXHIBIT C

EXHIBIT D

and

> > that Albert may be there as well.

> >

> > Rhonda

>

>

EXHIBIT D (cont.)

From: Joseph Palys
To: edwink@collaxa.com
Date: 11/6/01 1:35PM
Subject: U.S. Patent Application

Edwin,

My name is Joseph Palys and I work for Finnegan, Henderson, Farabow, Garrett, & Dunner, L.L.P., a law firm that drafted a patent application in which you were a co-inventor while you were employed at Netscape.

Could you please call me at the number listed below so we may discuss an issue regarding the patent application. We have been trying to get in touch with you for some time and we do not have a current phone number from which we can contact you.

I look forward to speaking with you.

Sincerely,

Joseph Palys
Finnegan, Henderson, Farabow, Garrett, & Dunner, L.L.P.
1300 I St. NW
Washington D.C., 20005
202-408-4280-phone
202-408-4400-fax

Thank you,

EXHIBIT E

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Albert C Tam

Phone: 408-739-6705

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Albert W Tam

Phone: 415-759-7038

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Albert Tam

Phone: 650-652-9931

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Phone: 650-756-7555

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Phone Number & Addresses: Search Results

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